

Minutes 03.22.07
Approved 04.16.07

VILLAGE OF WESLEY CHAPEL
SPECIAL COUNCIL MEETING
MINUTES
March 22, 2007 – 7:00 P. M.

The Council of the Village of Wesley Chapel, North Carolina, met in the Fellowship Hall of the Wesley Chapel United Methodist Church at 120 Potter Road South, Wesley Chapel, North Carolina, with Mayor Tracey Clinton presiding.

Present: Mayor Clinton, Mayor Pro-tem Croffut, Council Members Horvath, Pierce
Absent: Mullis

Others Present:
Interim Village Clerk/Finance Officer: Cheryl Bennett
Planning/Zoning Administrator: Justin Krieg
State Senator Eddie Goodall
Concerned citizens

Meeting was called to order at 7:00 PM and a quorum was present.

1. Discussion with Senator Goodall regarding Extra-Territorial Jurisdiction

Mayor Clinton went over the timeline of implementing ETJ in Wesley Chapel. In June 2006 it was discussed by Council; ETJ allows a town to have a say on what is developed around its borders. We are a new town with irregular borders, and Union County is the 15th fastest growing County in the nation. We started with almost 2000 parcels, and narrowed it down to 1044 parcels, the County approved 1042 parcels. We went through the necessary procedures, Public Hearings were held, and we sent first class mail notice four weeks ahead. The Public Hearing was January 16, 2007, and we mailed out on December 12, 2006. The new Board of County Commissioners (BOCC) in December reversed their decision. The statute clearly says two year notice is required, and we feel their decision is effective in two years. We filed suit in Superior Court to interpret the law. The County and Wesley Chapel made an interim agreement for joint zoning authority, and Superior Court accepted it. About one and a half weeks ago, Senator Goodall filed a bill to end ETJ immediately; this was disconcerting to us. The meeting format will be discussion between Sen. Goodall and Council for 30 minutes; then public comments (three minutes each, and no sharing of minutes). If questions are asked, the Senator and Council will have a chance to respond. We will end at 9 pm.

Ground rules are to be courteous and respectful, agree to disagree, define words and give examples, and respect the facilitator.

Senator Goodall thanked the Mayor for inviting him. He noted in Raleigh they are 200 miles away, sessions are not televised, and it is hard to make the process transparent. The bill, if it goes through the certification process, becomes law. The deadline for local bills

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was March 7; it has been referred to the Finance Committee (Chairman Sen. Hoyle). Goodall asked Doyle to set it aside until Goodall contacts him. The Committee would discuss and pass the bill, it would go to the floor of the Senate to be passed; then to the local government committee at the house, then the house would pass it, and it becomes law unless the governor vetoes it. He has no plan to start the process. In the event there is a protracted timeline, substantial legal costs, landowners don't know their rights; he felt with this combination of factors, it was prudent as a representative of all of Union county to file the bill; so there is a mechanism to settle this. The bill can be amended in committee or on the floor. He didn't want to use the State to make a local decision.

Horvath asked why the language of the bill is not in support of existing legislation? Goodall said he met with Mayor Clinton, talked about alternatives, and didn't have concrete enough examples to put in the bill; he represents the whole county and felt it best to use that language.

Horvath said if this is a law you don't support, could this happen in other instances that the State could void local decisions? Sen. Goodall said there is the Dillon's rule, if not excluded, we could do it, but he doesn't want to do that. He said this is the first time he got involved at the local level. He asked Sen. Gibson not to do that with ETJ in Marshville and Wingate; they didn't go to the County. He said he doesn't want to get involved on the local level, but can.

Croffut asked do you believe Wesley Chapel's position on ETJ and the two year transition of zoning power back to the county is wrong? Sen. Goodall said he doesn't know, he is not an attorney; doesn't know what "it's been given" means, whether it means Resolution or Resolution and action.

Croffut said the County granted ETJ to us, we went through due diligence, doesn't that mean the starting point of ETJ. Goodall said he just doesn't know the law, it might make sense, he can't second guess attorneys.

Pierce asked when did you become aware of our decision on ETJ? Sen. Goodall said on the news, maybe mid last year; his legislative assistant called all towns and BOCC, maybe then about six weeks ago.

Pierce asked did you contact anyone else regarding research? Sen. Goodall said no, the news said you were at an impasse; maybe I should know all the details, but I'm not the arbiter, and don't want to make decision.

Pierce asked what timeline needs to be afforded to us all; many steps were taken to reach resolution, so why a bill at this time? Goodall said he looked at the whole of it, the cost and time.

Mayor Clinton said you owe us more specifics, we followed the state statutes, practiced open and transparent government, held more hearings than required, discussed ETJ at many meetings. The new BOCC added the agenda item at the last minute, yet you are

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upholding the County that broke the law. You got language for the bill from Chairman Pressley, there was no open discussion in their meetings before he went to you to file a bill; you filed a bill for one person, who does not make up the BOCC. They went after the fact to get the Commission to approve, but that is not how government should work. Mayor Clinton asked how is it right to file a local bill; this statute applies to everyone but not to Wesley Chapel, how is that right with the State Constitution. ?

Sen. Goodall, said there is no law, there is a bill. There was a March 7 bill filing deadline, before going to Raleigh that week there was no BOCC meeting; Pressley assured me they had a majority. If I owe you something, I'm not sure what. I'm not judging who is right or wrong.

Mayor Clinton said I feel you owe it to the people to not rely on facts from one person, we consulted with the School of Government and attorneys; we feel we are on the right side of the law; it may not be popular. You owe it to your constituents to do a little more research of the matter; what was done is wrong, it was a back door deal between Pressley and you, and makes people not trust government; it needs to be open and honest.

Horvath said lawyers may make some decisions, but courts make the legal interpretation decisions, the law takes precedence. The language in the bill doesn't let the courts do their job. Goodall said he doesn't want to tell the courts what to do.

Croffut said the attorneys did come to the conclusion to make a joint agreement between Union County and Wesley Chapel, and it was signed off by the court. Croffut said, you (Goodall) said you wouldn't move the bill out of the committee unless there is no decision, if the Court favors one party, you could still advance the bill?

Sen. Goodall said no, this is just a mechanism to resolve it.

Croffut asked what criteria would be used in whether to move the bill? Sen. Goodall said he was not sure, he didn't know the legal costs or the time frame. We are in Raleigh through July or August, and back in May 2008. He expressed to Kevin Pressley, that he expected at a minimum, that they do all they can to resolve it in the courts or negotiate it. Croffut said, if there's not a conclusion, you could still move it forward?

Sen. Goodall said yes, eventually, he would try to do it if it were the best thing to do; it is a safety net to resolve it.

Pierce noted a bill is a powerful thing, you have come down on the side of the BOCC, you have a larger responsibility to clarify why, not what.

Sen. Goodall said you're right, I didn't know what other language to put in.

A two minute recess was held.

The citizen public comment time began.

1. Sherry Killion – commented on the field of trailers behind Wesley Chapel Elementary School, and orange barriers to safely contain children from packed roads and unknown strangers; there are two full time security people patrolling the grounds and assisting with traffic at the school. She questioned whether any

of us understand the impact of already approved commercial development in our area, and booming residential growth. She stated the Village is attempting to do what the BOCC will not do, plan for our future. We need ETJ, and ability to complete our master plan. ETJ was granted to Marshville, Monroe, Wingate and Stallings, it's against the NC Constitution to do something for one town, and not allow the same for others. IN the last week 317 families or parcels have requested to annex into Wesley Chapel, that is 30% of the ETJ area, which indicates that ETJ is a wanted and needed concept in our Village. She reminded Goodall of his campaign promises, "In Union County, I think its balancing quality of life...solutions to those issues need to be worked on and decided by local officials. I would support them by NOT trying to make those decisions in Raleigh." as stated in the Union Observer in 2000. Killion also stated as I understand it, your bill was penned by Kevin Pressley; he didn't even give his fellow commissioners the opportunity to discuss it prior to asking you to file the bill. "I've got to ask, whose interest is this bill really serving? This bill is a tool of intimidation. Wesley Chapel needs the ability to plan our community and you have the chance to correct the action and allow what is best for our small community."

2. Cathy O'Brien – noted it is fine to agree to disagree. Sixty seven per cent of Wesley Chapel elected the Mayor and Council; we didn't elect developers. We need a master plan. Wesley Chapel followed all the rules, took minimal properties, and it is not Wesley Chapel who is wasting taxpayer money. She asked Sen. Goodall to represent the citizens, and uphold ETJ. We shouldn't have to go to Raleigh to uphold this local issue.
3. Tracy Kuehler – said she sent a letter to Sen. Goodall a week ago, and asked if this is a bill to subvert the two year rescission period granted by statute. She asked why would he get involved in local issues without the unanimous consent or support of the entire BOCC, and questioning why the request of one man would be considered over the opinions and beliefs of the entire Board. She also questioned the explanation of avoiding litigation as a reason for filing this bill; in that she believes ignoring a statutory time frame as it pertained to one county in the state would raise the question of the constitutionality of the statute, therefore not avoiding litigation, but merely changing the defendants. She further noted that Goodall is on record as saying that he does not oppose ETJ, so he could have just as easily sided with Wesley Chapel and enforced the two year rescission period. She noted that he voted against the local act giving Wingate and Marshville ETJ power, her conclusion was that perhaps Goodall didn't think a local act was proper, and it isn't here either. Kuehler noted she is an ETJ landowner, with about 13 acres, and she spoke against ETJ at the county's public hearing, and believes there are fundamental problems with the statute, but feels this bill is wrong. She noted there is legislation in the works that would address the issues on a state level, and is an issue for the courts. Your response to my e-mail, she said, was short; "I have no obligation to developers. I did not know Harrell owned property in the area until Mayor Clinton told me." Kuehler noted she did not at any time accuse Goodall or question him as to his knowledge or involvement with Mr. Harrell. She referred to Mr. Harrell in terms of his Union

- County connections and quotes in the paper, and found it very odd that the only thing Goodall felt compelled to address from her questions was something completely irrelevant to you. Kuehler said she is more interested and concerned about Sen. Clodfelter, the co-chair of the Finance Committee to which the bill was sent. Sen. Clodfelter, spoke against ETJ at the BOCC, and is an attorney representing the lawsuit against the town, and voted for the local act granting ETJ for Wingate and Marshville. Kuehler noted she would think that before Goodall would jump in head first at the prompting of one person, you would familiarize yourself with who the players are, and his complete lack of knowledge is either suspect or extremely inept. Sen. Goodall asked for her e-mail, and read from it, he said he went by the majority of the BOCC, and said he represents the whole County, and had to put some language in there.
4. Betty Ross – thanked Sen. Goodall, and noted she is not in a development, and if not for us farmers, there wouldn't be developments; now the people in the developments want to control us. Governments have eminent domain, and APFO, and can put sewer across you, and the Mayor tells stories. People shouldn't tell her what to do, you wouldn't like it if we told you what to do, and she appreciated Sen. Goodall's help. Sen. Goodall reminded her that he is not making the decision.
 5. Dick Raby – said it was surprising that Goodall chose the wording from three people, there is no real time limit and there is no limbo, it is a joint planning and zoning authority. If your bill became law, then the courts would not make the decision. If the courts reach a decision, we find out who is right. He agrees this is a local issue. We don't need a law that potentially supports an illegal decision.
 6. Joe Evans – said Kevin Pressley is not the only one who voted for this; the Village did not proceed with an application before the new BOCC. He said this is flagrant, and a vendetta because Union Power outsmarted the village. He noted the Village has no services, and thought you have to provide services to have ETJ. People who stand up and support ETJ and don't have land violate his constitutional rights. He said the town was based on volunteers until the new Council came along. He noted Target, a big box store, is coming in. Mayor Clinton said what is the definition of a paper town – it is not a town with no services, it is a town incorporated but not operating and not holding elections. The state says once you have ETJ agreement, there are certain steps you have to follow, which we were doing. The former Council approved the commercial development, we don't have the right to rescind it; and she sees it as similar. We moved forward based on the BOCC decision. Pierce noted ETJ is not annexation, and no services are required.
 7. Steve Pitt – said he owns a parcel at the north side of the ETJ area, there is a creek, and floodplain and the sewer line runs across it, and will never be developed. He could have sold it if he would support less than R-40, but he doesn't even want R-40. He said there are three House bills, 362, 363, and 460 on ETJ; and the ETJ statute needs to be reworked. He said they can usurp my rights for their desires. He noted the Statute says all parcel owners should be notified by US Mail, and he didn't get a letter, and forty property owners signed a petition that they were not notified; and he asked to have his parcel taken out.

8. Sondra Bradford – said she spoke to Sen. Goodall on the phone last week, and asked why the bill was not referred to the state and local government committee; she said Goodall said he was a longtime friend of Larke Plyler, and Sen. Clodfelter, and thought this represents the good old boy networking at its worst. Sen. Goodall replied that he didn't know Sen. Clodfelter was the co-chair, the Rules Chair assigns the bill to a committee, and he doesn't know why it's in finance. He will call Sen. Rand, tell him about this meeting, and he would like to know too. Regarding transparency, you can go to www.ncleg.net, and track Sen. Bill 618. He said he would come back before the bill comes out of committee, and tell you the answer.
9. Horace Deese – said he got involved in local politics, and this is a bunch of misplaced Yankees. They are unhappy, and want you to be unhappy. We don't have a town hall, and want to control part of Union County.
10. Harry Martin – said he is against ETJ; if the law allows it, it doesn't mean you have to do it or that it is right. He commented on arrogance of power – if you appoint someone to the Planning Board, it doesn't mean anything, because the council can go against the recommendations of the Planning Board. Also, the Village is spending money not yours to take rights away from the people. Mayor Clinton noted that implementation of the boundary is policy; they asked the Planning Board to recommend zoning and the Planning Board chose not to make recommendations, and they addressed policy, which is not in their scope.
11. Larke Plyler – said he is against ETJ. He said (part of tape is inaudible)...can't vote for them, and the village skipped that part, the Village paid COG to do their zoning, they are the experts on ETJ, but there wasn't time to do that and COG wouldn't have allowed them; the process is flawed. He apologized for taking the town to Court, but wants to be zoned by people we vote for, and they are looking at a tax increase to provide services. He noted only four states allow ETJ: Alaska, Texas, California and N.C.
12. Mary Martin – said she lives in a development already developed, and why are those sorts of areas included in ETJ. The Village provides no services. She hears that citizens of Wesley Chapel do want ETJ; but she is not in Wesley Chapel. She has no right to vote for Council; and found an application for voluntary annexation in her mailbox, and it says annexation is free and then she can vote; it seems like blackmail to her. Sen. Goodall represents the County, the Council represents the citizens of Wesley Chapel, but not those in the annexation area; also if the law is wrong, shouldn't it be changed. Mayor Clinton responded, she feels the law on the books meets the needs of our citizens and what we ran on; she feels that when someone tries to go around the law that is wrong. There are flaws in the law, but we should work with Sen. Goodall to fix it.
13. Dean Harrell – commended Sen. Goodall for his bill, and said there are thousands who support you, and there will be petitions. He said one side will not like the decision. He said he would appeal to the Supreme Court. The Village is taking our potential to develop Union County. He said the Village ordinances now make costs 20-25% higher to build in Wesley Chapel; and will cause de-valuations.
14. John Couchell - said his family owns about 100 acres, he grew up here, and the original process was flawed. He doesn't want to be taxed more without services.

- He likes the convenience of having Harris Teeter and CVS nearby, and enjoys growth, but feels it should be controlled, not just one house per third acre; and feels the ETJ process was flawed.
15. George Couchell – said he was shocked to hear only four states have ETJ. He said the law is flawed; you may be following the letter of the law but not the spirit. He said every land owner should have the right to do what they want with their land, and vote for the people who control their land. He doesn't intend his land to be developed, but you don't know what will happen in the future. He said the Senator represents the majority of the people affected, and you should lobby and campaign for smart growth, and re-think the process. Pierce noted she is not a newcomer, and Couchell had known her father for a long time.
 16. Cathy Killogh-Brown – noted she is a fourth generation native, her family farmed and she is not leaving the area. She asked the previous Council for her neighborhood to be annexed, 68 out of 69 homes agreed and paid annexation fees as they felt it important to protect their home values. She feels the majority of the residents will benefit by ETJ; it doesn't take rights away, it is for protection, for controlled growth, and is the educated choice. If the families who profited by selling land at the intersections at 84 for commercial development hadn't done so, we wouldn't be as concerned about the direction we are going. She supported the Mayor and each of the council members as they deserve the right to serve their residents.
 17. Dan Schallenkamp – said he is on the Council of the Town of Indian Trail, but does not speak for the Town tonight. He said he would take Senator Goodall at his word that the bill is a stopgap measure, but what is the timeline, and what would the dollar threshold be. He wondered why Goodall didn't file two bills – one favoring the town, and can bill 618 be killed now, and do you think it should be? He said ETJ was more of a decision between how business was done in the past and future. He feels all property owners have rights, one right is to attend a school of bricks, not in trailers, other rights are safe roads, and affordable taxes. He feels Mayor Clinton and Council are doing what they think is right. Ten years down the road property values will increase. In the doughnuts in Indian Trail they replaced one home with 101 homes, and didn't mitigate the roads or stormwater. Sen. Goodall said he would look into the issues of the parameters, and as to the question of two bills, he sided with the BOCC because they were elected by 34,000 people. Goodall said can the bill be killed now – he has no intent to do that; he came to explain the process and why he filed the bill. Goodall said Sen. Clodfelter would be financially disadvantaged if I pass the bill. Mayor Clinton asked if Sen. Clodfelter would be required to recuse himself, Sen. Goodall said yes.
 18. Bruce Schneider – said he is a yankee, he is for ETJ, and respects homeowners who lived here many years. He said he also worries about property de-valuation and the schools as well. He said Sen. Goodall put the bill forward, didn't have all the facts, and sided with the County. Sen. Goodall said he was concerned with an impasse. Schneider said why did you side with the BOCC? Sen. Goodall said he sided with the BOCC because he represents the County and they were elected

- by 30,000 voters; he respects autonomy here, and filed the bill, and will come back if the bill moves.
19. Cheryl Sica – said this conflict of interest is scary, she saw the BOCC on television; they fired their attorney and hired their own personal attorney; it seems like a total conflict of interest, and kind of shady. Sen. Goodall said Sen. Clodfelter is a respected attorney. Sica asked if he will recuse himself? Sen. Goodall said yes, Clodfelter shouldn't have anything to do with this bill.
 20. Jeff Ramitzky – said he lives in Potters Trace, and moved here from busy south Florida. He is just hearing about ETJ. He thinks there are some conflicts of interest, and back door deals. He moved here for a safe place, a quiet clean community. He has a long commute working near the airport, and saw Wesley Chapel as “a great place to live” on the website. He is in favor of planned growth. He is worried that in five years it will be a crowded place that won't support growth without ETJ.
 21. Peter Couchell – said this is his third meeting; it is an inspiration to hold onto his farm. He feels for all the parties; he came from Greece, where democracy was created; and it means people have rights. He feels for the people who don't want to express their position and have a hard time paying taxes. Please take a vote from all the people, he said, many have not been heard.

The Mayor thanked everyone for coming tonight.

2. Adjournment

The meeting was adjourned at 9:15 pm.

Respectfully submitted,

Cheryl Bennett, Interim Clerk

Mayor Tracey Clinton